



DEALING WITH NATURAL DISASTERS

Here Comes The Flood (Of Legal Issues)

**2019 Annual Meeting
ABA Forum on Construction Law**

**April 24-27, 2019
The Diplomat Beach Resort
Hollywood, Florida**



Dear Colleagues

Florida's sunny beaches await you at the Forum's Annual Meeting at the newly renovated Diplomat Beach Resort. With hurricane season now in the rearview mirror and Spring Break season upon us, late April is the perfect time to enjoy some fun-in-the-sun while you prepare yourself and your clients for the arrival of stormy days when a natural disaster strikes.



Many people in coastal states are all too familiar with hurricanes and tornadoes. But this program prepares you for far more. Whether a wildfire or earthquake out West, floods or environmental disasters in the East, or volcanic eruptions in the Pacific, lawyers and clients have to be prepared for the complex array of legal issues and claims that arise from the ashes of disaster. From risk assessment to insurance, labor shortages to FEMA, “Dealing with Natural Disasters” is designed to educate and prepare you for the worst so you can be at your best when it counts.

Thought leaders from around the country will prepare lawyers to deal with every type of natural disaster. Topics include:

- Preparing for the disaster;
- Insurance considerations before the event and claims recovery afterward;
- Environmental risks that arise in mitigation, clean-up, and remediation;
- Contract considerations to address well before the likelihood of the event;
- Fraud and abuse in the aftermath such as price gouging, unlicensed contracting, false claims as well as the impossibility of performance and other contractual risks;
- FEMA procedures and disaster recovery;
- Labor force issues at every level while operating in emergency circumstances.

Who should attend and why?

- **Litigators and Advocates** - No matter who your clients are, you will gain a broader understanding of the unique and complicated impact to your client's rights, duties, risks, and remedies related to natural disasters. Whether you represent owners, contractors, subcontractors, subconsultants, or suppliers on small and large projects alike, as well as on public and private projects, you will want to know everything you can before the catastrophe.
- **Transactional and In-House Attorneys.** You will want to know more about risk assessment and insurance, contract drafting pitfalls and negotiation strategies, and requirements for documenting and presenting claims, as well as the ethical considerations in emergencies.
- **New Construction Attorneys.** This conference will provide you with a broader understanding of claims avoidance and claims presentation from contract drafting and negotiation to dispute resolution techniques. Attend the practicum on Wednesday, April 24, and learn more about negotiating your case to a successful outcome.

Of course, no program would be complete without guest activities for your spouse and family, a poolside Welcome Reception on Thursday evening, and tremendous guest speakers, including ABA President Robert Carlson and diversity speaker, Michele Coleman Mayes, Vice President, General Counsel and Secretary for the New York Public Library.



Finally, you don't come to sunny Florida to sit inside all day. We selected The Diplomat Beach Resort with Friday and Saturday afternoon off so you and your Forum friends and family have time to enjoy the Resort's beach, lagoon pool and infinity deck, poolside cabanas, and the beer and wine garden located on the Intracoastal Waterway.

Barring a natural disaster, we look forward to seeing you at the Forum's 2019 Annual Meeting in South Florida!

Leadership

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Program Schedule

WEDNESDAY, APRIL 24

12:00 P.M. – 3:00 P.M. Advance Registration Opens

1:00 P.M. – 5:00 P.M. ADVOCACY PRACTICUM– Today’s Strategies for Negotiation Success

Separate Registration Fee: \$75 per person

Limited to 60 participants

Two 15 minute breaks are built into the program.

If you didn’t take negotiation in law school, you definitely belong here. Even if you took negotiation and have developed your own style, register for this special program taught by Ava J. Abramowitz. A current mediator and former assistant U.S. Attorney for the District of Columbia, Ms. Abramowitz teaches negotiation at George Washington University School of Law. Ms. Abramowitz is a founding fellow of the American College of Construction Lawyers and recipient of the ABA Forum on Construction Law’s Cornerstone Award. The practicum will start with a presentation from Ms. Abramowitz. After learning the various techniques and skills, you will have an opportunity to take those strategies for a test drive to prepare for active negotiations. The program will conclude with a recap from the negotiation teams and Ms. Abramowitz. Registration for the Annual Meeting is not required to register for this practicum.

Ava J. Abramowitz, *The Offices of Ava J. Abramowitz | Leesburg, VA*

Sponsored By: *Division 1 – Litigation and Dispute Resolution
Young Lawyers Division, and The Forum Leadership Circle*

3:00 P.M. – 5:00 P.M. On Site Registration Opens

5:00 P.M. – 6:00 P.M. Networking Social Hosted By



5:30 P.M. – 6:00 P.M. First Time Attendee Welcome and Kickoff



Program Schedule

THURSDAY, APRIL 25

7:00 A.M. – 5:00 P.M.

Registration and Exhibit Hall Open

Sign-In for Continuing Legal Education Credits

7:15 A.M. – 8:30 A.M.

Continental Breakfast

8:15 A.M. – 8:30 A.M.

Welcome from the Chair: Opening Remarks and Announcements

8:30 A.M. – 9:45 A.M.

Plenary 1

The Hurricane is Coming in Five Days – What’s a Lawyer to Do?

It is critically important to prepare for natural disasters, especially in the context of ongoing construction. This experienced panel will discuss the construction lawyer’s role in natural disaster planning and response, which often involves drafting or reviewing clients’ disaster preparedness procedures, as well as advising clients on a number of legal and logistical issues, such as site security, pre-disaster documentation of project progress and site condition, documentation of delays and financial impacts resulting from a disaster event, preservation of claim rights, pursuit of recovery, and recommencement of construction activities.

Jimmy L. Morales, *City of Miami Beach | Miami Beach, FL*

Luis Prats, *Carlton Fields | Tampa, FL*

Michael Stephens, *Hillsborough County Aviation Authority | Tampa, FL*

9:45 A.M. – 10:00 A.M.

Break

10:00 A.M. – 11:15 A.M.

Plenary 2

It’s All About the Insurance

We will focus on the numerous unique insurance issues associated with natural disasters. Issues of insurance coverage for property damage, notice requirements post-disaster, wind vs. water exclusions, other possible exclusions to coverage, coverage for business interruption, and builder’s risk coverage will be some of the issues discussed.

Timothy P. Kraft, *Warrior Consulting Ventures | Sarasota, FL*

Charles E. Comiskey, *RiskTech, Inc. | Houston, TX*

Amanda K. Anderson, *Boyle & Leonard, P.A. | Tampa, FL*

11:15 A.M. – 11:30 A.M.

Break

11:30 A.M. – 12:30 P.M. Workshop A

A Closer Look at Insurance Issues Following a Natural Disaster

After the plenary session on insurance issues, this workshop will take a more in depth analysis of critical insurance issues including builder's risk insurance and business interruption losses as well as examine the availability of other types of insurance that can aid clients in the event of a natural disaster.

Philip C. Silverberg, *Mound Cotton Wollan & Greengrass LLP* |
New York, NY

Philip J. Truax, *Wickens Herzer Panza Co.* | *Cleveland, OH*

11:30 A.M. – 12:30 P.M. Workshop B

Environmental Issues Following a Natural Disaster

Environmental issues often arise from a natural disaster. Our panelists will identify some of those issues and discuss how to allocate liability, mitigate damages, and resolve those issues within a reasonable timeframe.

Tracey D. Dodd, *J.S. Held LLC* | *New Orleans, LA*

Dorsey R. Carson, Jr., *Carson Law Group* | *Jackson, MS*

12:45 P.M. – 2:15 P.M. Lunch

Business Meeting, Elections and Awards

2:15 P.M. – 2:30 P.M. Break

2:30 P.M. – 3:45 P.M.

Plenary 3

Key Contract Provisions When a Natural Disaster Strikes

This session will focus on contract terms that typically come into play in the event of a natural disaster, such as clauses covering force majeure, delays, and adverse weather. Topics will include drafting provisions to protect your client from the risks associated with natural disasters, the contracting parties' claim rights and obligations following a natural disaster, as well as project suspension or termination.

Jeffrey R. Appelbaum, *Thompson Hine* | *Cleveland, OH*

Nathan C. Gould, *ABS Group* | *St. Louis, MO*

3:45 P.M. – 4:00 P.M. Break

Program Schedule

THURSDAY, APRIL 25 CONTINUED

4:00 P.M. – 5:15 P.M.

Plenary 4

A Discussion on Post-Catastrophe Issues

Immediately after a natural disaster, the first people to mobilize include contractors trying to help and insurance companies and experts being asked to evaluate properties and projects. Practical issues include material shortages, labor prices, contractor licensing, avoiding price gouging, and getting experts mobilized to inspect properties and projects. Hear from people who have been on the ground post-disaster to learn about the unexpected legal and logistical issues.

Moderator: Jamie S. Peterson, *HNTB | Oakland, CA*

John Abruzzo, *Thornton Tomasetti, Inc. | San Francisco, CA*

Charles F. Boland, PE, *GREYHAWK, North America, LLC | Mount Laurel, NJ*

Roberto Hernández García, *COMAD, S.C. | Mexico City, Mexico*

6:30 P.M. – 8:00 P.M.

Welcome Reception

FRIDAY, APRIL 26

7:00 A.M. – 1:00 P.M.

Registration and Exhibit Hall Open

Sign-In for Continuing Legal Education Credits

7:30 A.M. – 8:45 A.M.

Diversity Breakfast

8:45 A.M. – 9:00 A.M.

Break

9:00 A.M. – 10:15 A.M.

Plenary 5

FEMA 101: What Construction Contractors and Project Owners Need to Know

What do you as a construction lawyer need to know about FEMA? This session will describe what FEMA's role is before, during, and after natural disasters. Key questions to be answered include: who is eligible to apply for assistance from FEMA? What types of properties are eligible to receive assistance? How much will FEMA pay and how much money is available? What are the procedures and protocols that must be followed to receive payment as a contractor? Finally, what are the potential pitfalls or traps that contractors might not realize exist, and how do they avoid problems?

Ernest B. Abbott, *Baker Donelson | Washington, DC*

Mary Ellen Martinet, *Federal Emergency Management Agency (FEMA) | Washington, DC*

10:15 A.M. – 10:30 A.M. Break

10:30 A.M. – 11:30 A.M. Plenary 6

Post-Disaster Labor Force Issues

A natural disaster can both create new labor force issues and augment existing ones. Using history and case studies, this workshop will include an overview of the impacts that weather conditions and natural disasters can have on labor availability, as well as preventative and restorative measures that can be used by lawyers when those impacts threaten or are encountered.

Anthony Gonzales, *Spire Consulting Group, LLC | Austin, TX*
Jodi Taylor, *Brasfield & Gorrie, LLC | Atlanta, GA*

11:30 A.M. – 11:45 A.M. Break

11:45 A.M. – 1:00 P.M. Division Lunches

SATURDAY, APRIL 27

8:00 A.M. – 11:45 A.M. Registration and Exhibit Hall Open

8:00 A.M. – 9:00 A.M. Continental Breakfast

9:00 A.M. – 10:15 A.M. Plenary 7

The Things I Wish I Had Known Before the Disaster

What should you do before a natural disaster to prepare you for the disaster? This panel consisting of a contractor's in-house lawyer and two consultants who have worked on behalf of owners, contractors, subcontractors, and insurers will discuss the issues that they did not see coming. How did they work through those tough issues, and how can you do the same?

William R. Broz, P.E., *Exponent | Los Angeles, CA*
Tina Cydzik, P.E., LEED AP, *Engineering Systems, Inc. (ESI) | Irvine, CA*
Daniel R. Wireman, *Cleveland Construction, Inc. | Naples, FL*

10:15 A.M. – 10:30 A.M. Break

10:30 A.M. – 11:45 A.M. Plenary 8

The Potentially Catastrophic Design Error and the Ethical Response

Don't miss this entertaining and informative session on issues that arise when a designer realizes that its design may be subject to a catastrophic failure, such as how to disclose the possibility of a failure, the ethical considerations for counsel and other professionals, insurance repercussions, and control over the solution.

Eileen M. Diepenbrock, *Diepenbrock Elkin Gleason LLP | Sacramento, CA*
Mark J. Heley, *Heley, Duncan & Melander, PLLP | Minneapolis, MN*
Michael S. Zetlin, *Zetlin & De Chiara LLP | New York, NY*

Special Events

FRIDAY, APRIL 26

We are honored to have Robert Carlson, President of the American Bar Association, who will speak on the role of the ABA today, its mission to advance the rule of the law, to eliminate bias and enhance diversity, and to serve as the voice of the legal profession in the United States and abroad. Mr. Carlson is a small town practitioner in Butte, Montana. He will also share his lessons learned as a lawyer practicing for over 35 years.



WEDNESDAY, APRIL 24

FIRST TIME ATTENDEE WELCOME AND KICKOFF

5:30 P.M. – 6:00 P.M.

This special event welcomes those attending their first Forum meeting, and welcomes back any who are attending for the first time in five or more years. Come meet other first-timers and the leadership of the Forum. All attendees are invited to the Exhibitor Reception immediately following.



THURSDAY, APRIL 25

WOMEN'S NETWORKING RECEPTION

5:30 P.M. – 6:30 P.M.

Enjoy cocktails, network, and socialize with many of the best-known women in construction law. This reception is a great opportunity to meet colleagues and talk about how we got here, where we are, and what the future holds for women in the profession.



THURSDAY, APRIL 25

WELCOME RECEPTION

6:30 P.M. – 8:00 P.M.

Come and reconnect with Forum members. Enjoy drinks and hors d'oeuvres, while relaxing in the soft sea breezes with your fellow construction professionals.



FRIDAY, APRIL 26

DIVERSITY BREAKFAST

7:30 A.M. – 8:45 A.M.

Michele Coleman Mayes is vice president, general counsel and secretary for The New York Public Library (“NYPL”) and a member of the senior management group, having joined NYPL in 2012. From 1976 through 1982, she served in the United States Department of Justice as Assistant United States Attorney in Detroit and Brooklyn, eventually assuming the role of Chief of the Civil Division in Detroit. In 1982, Mayes entered the corporate sector as managing attorney of Burroughs Corporation. As Burroughs and Sperry Corporation merged, creating Unisys Corporation, she was appointed staff vice president and associate general counsel for Worldwide Litigation. In 1992, she joined Colgate-Palmolive Company as vice president and associate general counsel U.S. In 1993, she was promoted to vice president of Human Resources and Legal for North America and ultimately became vice president, legal and assistant secretary, and elected a corporate officer. In 2003, she joined Pitney Bowes as senior vice president and general counsel. In 2007, she assumed the role of executive vice president and general counsel for Allstate Insurance Company, a position she held until joining NYPL. Mayes is the recipient of numerous awards, including the American Bar Association, Commission on Women in the Profession - The Margaret Brent Award, and the Minority Corporate Counsel Association Trailblazer Award. Mayes was recognized in 2009 as one of the most Influential General Counsels in America by The National Law Journal and by Ethisphere Institute in 2011 Attorneys Who Matter. In 2012, she received a Lifetime Achievement Award from The American Lawyer. In 2011, Michele and Kara Baysinger co-authored a book entitled *Courageous Counsel*, which chronicles the rise of women general counsel in the Fortune 500. She served on the Presidential Commission on Election Administration in 2013-2014. She became Chair of the Commission on Women in the Profession of the American Bar Association in August 2014.



Other Social Events

THURSDAY, APRIL 25

Spouses and Guests Everglades Excursion

12:00 P.M. – 4:00 P.M.

Limited Seats Available. Separate Ticketed Event: \$60

Enjoy an Everglades Excursion as you journey into Mother Nature's secretly preserved wilderness. This experience will be on an airplane propeller powered airboat, seeing creatures' natural habitats, amidst alligators and other exotic wildlife. An experienced guide will point out some of the region's most unique features, including wild birds, snakes, and other flora and fauna that are not found anywhere else in the country.

FRIDAY, APRIL 26

Catamaran Sail

1:00 P.M. – 5:00 P.M.

Limited Seats Available. Separate Ticketed Event: \$80

Enjoy a sunny day on a 49 passenger catamaran with Forum friends and guests as you set sail on a private charter through the Intracoastal Waterway dotted with mansions and mega yachts. Once you reach your destination, sip a cool drink, relax and soak up the sun, swim, snorkel, or just mix and mingle.



Sponsors and Exhibits

Visit Forum Sponsors and Exhibitors in the Exhibits Area! The Forum Exhibits Area brings a variety of companies together in one place with capabilities fitting the unique needs of construction lawyers. Thanks to all of the Forum Sponsors and Exhibitors for their continued support of the Forum!

Forum Diversity Initiative

The Forum will waive the registration fee for the first ten Forum members who register for each of the three national meetings of the Forum during the 2018 - 19 Bar year who also register and bring along a diverse lawyer to his or her first national meeting of the Forum (a “first timer”), whose registration fee will also be waived. It could be a diverse young associate in the member’s office or a diverse lawyer on the other side of a case. The Forum member and the first timer must both commit to attend the program (offer limited to one per Forum member per Bar year). In order to take advantage of this offer, Forum members must contact Patricia.Harris@americanbar.org prior to registering for the program.

Diversity & Inclusion Electronic Survey

The Forum has partnered with Jones Diversity, a premier diversity and inclusion consulting firm, to develop an anonymous and confidential diversity and inclusion survey. Please take the time to complete this survey, which will provide valuable insights for Jones Diversity’s assessment of our organizational culture and diversity and inclusion efforts. The survey can be found here: www.research.net/r/Forum2019Survey and will close on Thursday, February 28th, 2019. If you have any questions regarding the survey, please email Sharon E. Jones of Jones Diversity at sharon@jonesdiversity.com.

Forum Diversity Scholarship Opportunity

The Forum has Diversity Scholarships available for women and minority construction lawyers, construction lawyers with disabilities, and construction lawyers from the LGBT community for the cost of registration to the Forum’s 2019 Annual Meeting. See the Forum website under the announcement section or contact David Theising at DTheising@harrisonmoberly.com for more information.

Hotel Information

The Diplomat Beach Resort, 3555 South Ocean Drive; Hollywood, Florida 33019. To reserve a hotel room call the hotel directly 855-689-2911 or use the web link <https://book.passkey.com/gt/217279746?gtid=425a9de31ebac4ba04608f58a160143c>. The deadline for reservations is April 1, 2019, 5:00 pm (CST) or before if the block is exhausted. Room rates start at: \$299/night (plus tax and \$30/resort fee). **Please reference the ABA Forum on Construction Law 2019 Annual Meeting. You must register for the conference prior to making your hotel reservation.**



CONFERENCE INFORMATION

- 1. AIR TRAVEL:** Airfare and car rental discounts for ABA meetings are available through Egencia and Hertz. Go to www.americanbar.org/membership/aba_advantage_discounts.html for more information.
- 2. PROGRAM REGISTRATION:** Online at ambar.org/FCLANN19 or complete and return the attached registration form with your payment before April 10, 2019. Conference registrations will only be accepted when accompanied by a check or credit card. Credit card registrations may be FAXED directly to the ABA at 312-988-5850. Registrations cannot be processed without payment. If you do not receive a written confirmation **within 48 hours or by April 12, 2019**, please call the ABA at 800-285-2221 to verify that your registration form and payment were received.
- 3. ON SITE REGISTRATION:** On site registration is available for those persons who miss the registration deadline. If you plan to register at the door, you must email Patricia.Harris@americanbar.org 72 hours before the conference to confirm that space is still available. No cash payments accepted.
- 4. SCHOLARSHIP:** Scholarships may be available for a limited time. Attorneys who qualify will receive at least a 50% reduction in the course fee(s). This does not include any reduction in meals, lodging, or travel costs associated with the meeting. For more information email Tamara.Harrington@americanbar.org or call 312-988-5674.
- 5. CANCELLATION POLICY:** No refunds will be granted for cancellations received after March 22, 2019. To receive a refund, minus a \$65 administrative fee, cancellations must be made IN WRITING and RECEIVED by Tamara.Harrington@americanbar.org.
- 6. CLE CREDIT:** The ABA will seek 15.42 hours of CLE general credit in 60-minute states, and 18.50 hours of CLE general credit for this program in 50-minute states. Including 1.25 hours of CLE ethics credit in 60-minute states and 1.50 hours of CLE ethics credit in 50-minute states as needed. Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit www.americanbar.org/mcle for general information on CLE at the ABA.
- 7. MEMBERSHIP:** To join the Forum for \$60 go to ambar.org/constructionlaw. Save money on this conference and other CLE programs and books by joining the Forum.
- 8. PRIVACY NOTICE:** Registration for, attendance at, or participation in the Forum conferences and other associated activities constitutes an agreement by the registrant or participant to permit the American Bar Association to use and distribute (both now and in the future) the registrant or participant's image or voice in photographs, videotapes, electronic reproductions, and audiotapes of such event and activities.



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11. TAX DEDUCTION FOR EDUCATIONAL EXPENSES: In the United States an income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals and lodging expenses (see Treas. Reg. Sec. 1.162-2) *Coughlin v. Commissioner*, 203 F.2d 307 (2nd Cir. 1953.)

12. AMERICANS WITH DISABILITIES ACT: If special arrangements are required for disabled individuals to attend this program, please contact the Forum in writing by March 25, 2019 at the American Bar Association, 321 N. Clark Street, Chicago, Illinois 60654. Fax: 312-988-5677. Email Patricia.Harris@americanbar.org.

13. QUESTIONS: If you have questions or require additional conference information, please call 312-988-5674 or email Tamara.Harrington@americanbar.org.



DEALING WITH NATURAL DISASTERS

Here Comes The Flood (Of Legal Issues)

2019 Annual Meeting | ABA Forum on Construction Law

APRIL 24-27, 2019

The Diplomat Beach Resort | Hollywood, Florida

SAVE THE DATE FOR FUTURE PROGRAMS!

2019 Regionals Sticks & Bricks

September 20, 2019
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Sacramento, CA | Chicago, IL

2019 Fall Meeting

October 23-25, 2019
Philadelphia, PA

2020 Midwinter Meeting

January 22-24, 2020
Tucson, AZ



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